THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17145 of 1995

ORAL ORDER:

This writ petition is filed seeking a Mandamus directing the first respondent to decide the dispute raised on 30.9.1994 by the petitioner with regard to the deficit amount occurred during the period from 1991 to 1994 when the petitioner worked as Salesman of Eight Incline Depot, Godavarikhani, Singareni Collieries Cooperative Central Stores and till the said dispute is decided, to forbear the respondents 3 to 5 from deducting the alleged deficit amount from the salaries of the sureties of the petitioner in pursuance of the communication to the sureties dated 19.6.1995 issued by fourth respondent and communication dated 10.7.1995 issued by fifth respondent and allow the petitioner to attend to his duties.

There is no necessity of going into all the details.

It appears, at the time of joining of the petitioner as Salesman in the Singareni Collieries Super Bazar, he was asked to furnish two sureties for obtaining employment. The petitioner did so. It appears, thereafter, the management of the society found that the petitioner has misappropriated certain amounts and therefore, a notice dated 15.7.1994 was issued to the petitioner. Aggrieved by the same, petitioner raised a dispute under Section 61 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') before the first respondent by filing an application dated 30.9.1994. Instead of taking up the dispute and deciding the same on merits, the first respondent passed the order dated 22.12.1994 directing the petitioner to approach him only after obtaining final orders of the management holding the petitioner responsible for the deficit caused, if any. Aggrieved by the same, the present writ petition is filed.

It is the contention of the petitioner that apart from the notice dated 15.7.1994, the society also issued notices to the guarantors for reimbursement of the purported deficit caused by the petitioner. According to the petitioner, unless and until, his application filed under Section 61 of the Act is decided and responsibility is fastened on him, no action can be taken against him or against the guarantors. I am in complete agreement with the submission made by the learned counsel for petitioner. The respondents are not entitled to proceed against the petitioner or the guarantors without conducting any enquiry into the dispute raised by the petitioner under Section 61 of the Act. Therefore, the impugned order is liable to be set aside.

In the result, the writ petition is allowed and the impugned order is set aside. The first respondent is directed to proceed with the enquiry under Section 61 of the Act and decide the same as per law. No order as to costs.

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C.V.RAMULU, J

Date: 10.10.2006

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W.P.No.17145 of 1995

10.10.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17145 of 1995

Date: 10th October, 2006

Between:

N.Anjaneyulu

.. Petitioner

And

The Divisional Cooperative Officer,
Peddapally, Karimnagar district & others.

.. Respondents